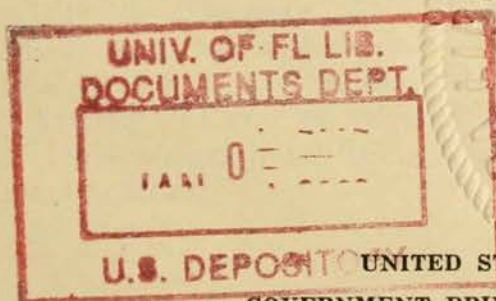
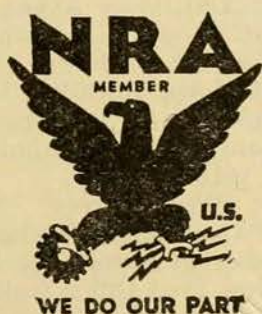


NATIONAL RECOVERY ADMINISTRATION

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CODE OF FAIR COMPETITION  
FOR THE  
WOOD CASED LEAD PENCIL  
MANUFACTURING  
INDUSTRY

AS APPROVED ON FEBRUARY 17, 1934



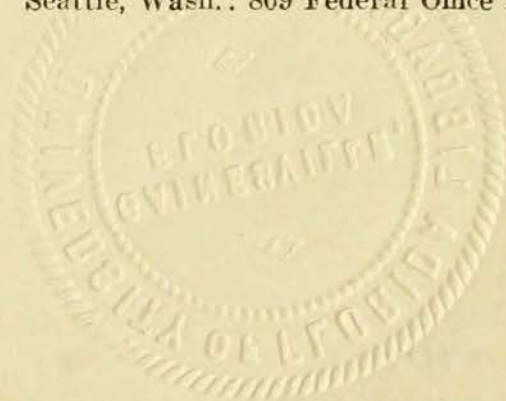
GOVERNMENT PRINTING OFFICE

WASHINGTON : 1934

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Approved Code No. 291

CODE OF FAIR COMPETITION

FOR THE

WOOD CASED LEAD PENCIL MANUFACTURING  
INDUSTRY

As Approved on February 17, 1934

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ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE WOOD CASED LEAD  
PENCIL MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Wood Cased Lead Pencil Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United State, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved, provided that the continued participation of the trade association participating in the selection or activities of the Code Authority after thirty days from the effective date of this Code shall be contingent upon its constitution and by-laws being amended to the satisfaction of the Administrator and, provided further, that the provisions of Section I of Article VII and Sections 8, 9, 10, 11, 12, 13, 14 and 15 of Article X are suspended pending further study and determination by the Administrator.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval recommended:

GEO. L. BERRY,  
*Division Administrator.*

WASHINGTON, D.C.,  
*February 17, 1934.*



## REPORT TO THE PRESIDENT

The PRESIDENT,  
*The White House.*

SIR: A public hearing on the Code of Fair Competition for the Wood Cased Lead Pencil Industry of the United States was conducted in Washington on the 6th of November, 1933, in accordance with the provisions of the National Industrial Recovery Act. The Institute claims to represent 97 percent of the Industry.

The maximum hours established in the Code for the Wood Cased Lead Pencil Manufacturing Industry are 40 per week except firemen and employees in shipping and cartage service who shall be allowed a maximum of 46 hours per week. Kiln tenders, cleaners and watchmen may be employed in pairs and shall not work more than 36 and 48 hours on alternate weeks or an average of 42 hours per week. Persons employed in a managerial or executive capacity and supervisory staffs receiving \$35.00 per week or more, traveling salesmen and employees engaged in emergency repair work are excepted as to hours provided emergency repair crews receive time and one third for all hours worked per week in excess of forty. To provide for peak demand periods all employees except those stated above who are exceptions to the maximum hours may be employed a total of 46 hours per week averaged to forty during any thirteen week period and time and one third shall be paid for all hours worked in excess of forty per week. Each employee in the industry is guaranteed one day of rest in every seven unless specifically excepted by the Code Authority.

The Wood Cased Lead Pencil Manufacturing Industry operated on an average, according to the Bureau of Census figures, of 50 hours per week in 1929 and 45 hours per week in 1931. In 1929 this industry employed 4,476 individuals of whom 3,756 were wage earners. Wage earner employment declined 24.5 percent from 1929 to 1931. To bring the number of wage earners back to the 1929 level of employment or to 3,756 wage earners it would be necessary for the industry to adopt a 34 hour week, assuming that employment since 1931, the latest data available has been fairly constant. However, since 1931 the industry has reemployed a number of persons and, therefore, a 40 hour week seems the most advisable basis to use in establishing an approximation as to the number of additional wage earners who might be benefited through reemployment. On the basis of a 40 hour week 564 wage earners should benefit through reemployment.

The wages established by the Code for this industry are 36 cents per hour or \$14.40 per week of 40 hours except in the State of Tennessee, where no employee shall be paid less than at the rate of 30 cents per hour or \$12.00 per week of forty hours. The industry agrees to maintain the policy of not reducing the compensation for



employment which compensation was, prior to June 16, 1933, in excess of the minimum wage established in the code, notwithstanding that the hours of employment may be reduced; and unless since such date such adjustments have been made, all members of the industry agree to endeavor to increase the pay of all employees in excess of the minimum wage by an equitable adjustment of all pay schedules. Office boys and office girls, 18 years of age or less, may be engaged at not less than 80 percent of the minimum rates established, the number of such employees to be limited to 5 percent of the total office staff but in no case less than one such employee.

The average hourly rate for wage earners in this industry in 1929, based on a 50 hour week, was 42.7 cents, while in 1931, using a 45 hour week as the basis, the average was 40.2 cents per hour. On the basis of the 1931 hourly average, the average salary per wage earner amounted to \$18.12 per week. On the same hourly basis for a 40 hour week the average salary would amount to \$16.08 per week.

With regard to the marketing provisions in Article X of the Code careful consideration has been given these provisions by the Research and Planning Division and the Legal Division and in various conferences held with the industry these provisions were amended, modified and changed to eliminate undesirable features and in its present form it is felt to be equitable and necessary to this industry. These provisions will not work to the disadvantage of the consumer. On the contrary it is felt that they would work to their advantage inasmuch as quality would become more of a factor in competition than price.

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid industry; and that said association will amend their constitu-



tion and by-laws to the satisfaction of the Administrator so that no inequitable restrictions on membership will be imposed therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

This industry has cooperated in a most satisfactory manner in the preparation of this Code. From the evidence adduced during the hearing and from recommendations and reports of the various Advisory Boards, it is believed that this Code in its present form as approved represents an effective, practical, equitable solution for this Industry and for these reasons this Code has been approved.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

FEBRUARY 17, 1934.



# CODE OF FAIR COMPETITION FOR THE WOOD CASED LEAD PENCIL MANUFACTURING INDUSTRY

## ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this code is established as a code of fair competition for the Wood Cased Lead Pencil Manufacturing Industry, and its provisions shall be the standard of fair competition for such industry and binding upon every member thereof.

## ARTICLE II—DEFINITIONS

1. The term "Wood Cased Lead Pencil Manufacturing Industry" shall include the production in continental United States of wood cased lead pencils, commencing with the assembly of wood slats and leads and the processing of these materials in combined form, resulting in the completed wood cased pencil, either with, or without, the tip and/or eraser. The term shall also include such related manufacturing branches or subdivisions of the industry as may, from time to time, be included under the provisions of this code by the President of the United States, after such notice and hearing as he may prescribe.

2. The term "Member of the Industry" or "Member" includes each of those engaged in the industry as defined above operating as an employer.

3. The term "Employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

4. The term "Institute" shall mean the Lead Pencil Institute, Incorporated.

5. The term "Dealer" shall include each of those who is regularly engaged in the wholesaling and/or retailing of wood cased lead pencils (except blanks) in the ordinary course of business. This shall not include the sale of pencils for use as advertising.

6. The term "Distributor" shall include each of those purchasing pencils in blank form and re-selling in that form and/or imprinting or stamping such blank pencils and re-selling them for advertising purposes.

7. The term "Consumer" shall mean any purchaser of wood cased lead pencils who is not a dealer or distributor as defined above. Commissaries and other buying agencies operated by corporations or groups of corporations for the procurement of supplies for their own use, and boards of education, are included.

8. The term "Sales Agents" or "Agent" shall include each of those who or which shall serve the members of the industry in the distribution of wood cased lead pencils to dealers, in the same capacity as the members' sales departments. Such agents shall be ap-



pointed only in accordance with regulations adopted by the Code Authority and approved by the Administrator.

9. The term "Products" shall mean wood cased lead pencils with or without tips or erasers.

10. The terms "Act" and "Administrator" as used herein mean respectively Title I of the National Industrial Recovery Act and the Administrator for Industrial Recovery.

11. Population for the purposes of this Code shall be determined by reference to the latest Federal Census.

### ARTICLE III

SECTION 1. *Maximum Hours*.—No employee shall be permitted to work in excess of 40 hours in any one week, except as herein otherwise provided.

SECTION 2. *Exceptions as to Hours*.—Firemen and employees in shipping and cartage service, shall be allowed a maximum of 46 hours per week.

SECTION 3. Kiln tenders, cleaners and watchmen may be employed in pairs, and shall not work more than 36 and 48 hours in alternate weeks or an average of 42 hours per week.

SECTION 4. The provisions of this Article shall not apply to persons employed in a managerial or executive capacity, or supervisory staff who earn \$35.00 per week or more; traveling salesmen; or to employees engaged in emergency repair work; provided, however, that time and one third shall be paid emergency repair crews for all hours over 40 worked per week.

SECTION 5. To provide for peak periods labor other than as provided for in sections (2), (3) and (4), may be employed a maximum of 46 hours per week provided that during any 13 week period the total number of hours worked shall not exceed 520; and further provided that time and one third shall be paid for all hours worked in excess of 40 per week.

SECTION 6. *Employment by Several Employers*.—No employee shall work or be permitted to work, for a total number of hours in excess of the number of hours herein prescribed either if he be employed by one or more employers.

SECTION 7. *Standard Week*.—Unless specifically excepted by the Code Authority every employee shall be guaranteed one day of rest in every seven.

### ARTICLE IV—WAGES

SECTION 1. *Minimum Wages*.—No employee shall be paid in any pay period less than at the rate of 36 cents per hour or \$14.40 per week of 40 hours for males and 32½ cents per hour or \$13.00 per week of 40 hours, for females, except as otherwise herein provided.

SECTION 2. *Minimum Wage Rates by Locality*.—In the State of Tennessee no employees shall be paid in any pay period less than at the rate of 30 cents per hour or \$12.00 per week of 40 hours.

SECTION 3. Additional zoning classifications may be provided by the Code Authority subject to the approval of the Administrator.

SECTION 4. *Piece-Work Compensation*.—This article establishes a minimum rate of pay which is applied irrespective of whether an



employee is actually compensated on a time rate, piece-work performance or other basis, in which case employees shall be paid once a week.

SECTION 5. *Wages Above the Minimum.*—It is the policy of the members of this industry to refrain from reducing the compensation for employment which compensation was prior to June 16, 1933, in excess of the minimum wage herein set forth, notwithstanding that the hours of work in such employment may be reduced; and, unless since such date such adjustments have been made, all members of this industry shall endeavor to increase the pay of all employees in excess of the minimum wage, as herein set forth, by an equitable adjustment of all pay schedules proportionate to the increase in compensation as determined by the minimum wage herein provided.

SECTION 6. *Female Employees.*—Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SECTION 7. *Handicapped Persons.*—A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this code if the employer obtains from the State authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Provided that such employees have been in the service of their present employers for a period of not less than 15 years. Each employer shall file with the Code Authority a list of all such persons employed by him.

SECTION 8. *Wages Below the Minimum.*—Office boys and girls, eighteen years or younger, may be engaged at not less than eighty per cent of the minimum rate established in Sections 1 and 2 of this article—number to be limited to 5 per cent of total office staff, but in no case less than one such employee.

## ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Child Labor.*—No person under sixteen years of age shall be employed in the industry. No person under eighteen years of age shall be employed at any operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within 60 days after the approval of this code a list of such hazardous occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SECTION 2. *Provisions from the Act.*—In compliance with Section 7(a) of the Act, it is provided:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.



(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President. .

SECTION 3. *Reclassification of employees.*—Employers shall not reclassify employees or duties of occupations performed or engage in any other subterfuge to defeat the purposes of the Act or of this Code.

SECTION 4. *Standards for safety and health.*—Every employer shall make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

SECTION 5. *State laws.*—No provision in this code shall supersede any State or Federal law which imposes more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions than are imposed by this code.

SECTION 6. *Posting.*—All employers shall post and keep posted complete copies of the wage and hour and general labor provisions of this code in conspicuous places accessible to employees.

SECTION 7. *Home work.*—On and after the effective date of this code all home work shall be prohibited.

SECTION 8. No employee shall be required as a condition of employment:

- (a) To live in a house rented from an employer.
- (b) To trade at a store designated by an employer.
- (c) To accept as payment for wages anything other than cash or negotiable check, payable on demand.

## ARTICLE VI—ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

### ORGANIZATION AND CONSTITUTION

SECTION 1. A Code Authority is hereby established to cooperate with the Administrator in the administration of this code and shall consist of seven members to be chosen by the industry through a fair method of selection, approved by the Administrator, and shall serve for a period of one year from the date of their election. The Administrator, in his discretion, may appoint not more than three additional members without vote, and without compensation from the industry, to serve for such period of time and to represent the Administrator or such group or groups as he may designate.

SECTION 2. Vacancies in the personnel of the Code Authority selected by the industry shall be filled through appointment by the Administrator upon nomination of the Code Authority.

SECTION 3.—Any trade or industrial association directly or indirectly participating in the activities of the Code Authority shall submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization,



and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SECTION 4. No inequitable restrictions on admission to membership in the Lead Pencil Institute or any other trade association or organized group, participating in the activities of the Code Authority shall be imposed, and any member of the industry shall be eligible for membership in any such trade association or organized group upon compliance with the provisions of the by-laws relating to membership, provided that any person applying for such membership shall, in addition to the payment of such dues as are imposed upon and paid by all other members, accept a reasonable and equitable share of the cost of code administration. Such members of the industry who do not choose to become members of any trade association or organized group may participate in the activities of the Code Authority upon the payment of such proportionate part of the cost of code administration as the Code Authority, subject to the Administrator's approval, shall prescribe as fair and equitable.<sup>1</sup>

SECTION 5. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to any one for any act of any other member, officer, agent or employee of the Code Authority.

SECTION 6. *Powers and duties.*—The Code Authority shall have the following further powers and duties, the exercise of which shall be reported to the Administrator, and shall be subject to his right, on review, to disapprove any action taken by the Code Authority, inconsistent with the provisions of this code or of the Act.

(a) To administer the provisions of this code and the regulations of the Code Authority which are approved by the Administrator.

(b) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of the industry, monthly reports upon forms to be provided by it, under a code name to be known only to the member and the agency appointed by the Code Authority, complete and accurate statistics showing the members' production, new orders, unfilled orders, shipments and inventory of finished and processed stock of industry products, samples delivered free, and returned goods, net and gross prices received, upon a classification of products into commodity groups as adopted by the Code Authority. In addition the industry shall furnish such other information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information shall be submitted by members to such administrative and/or governmental agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any governmental agency. No individual reports shall be disclosed to any other member of the industry or any other party except to such governmental agencies as may be directed by the Administrator.

(d) To use the Lead Pencil Institute and such other agencies as it deems proper for the carrying out of any of its activities provided

<sup>1</sup> See paragraph 2 of order approving this Code.



for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To make recommendations to the Administrator for the co-ordination of the administration of this Code with such other codes, if any, as may be related to the industry.

(f) To secure from members of the industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

(g) To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the industry who have assented to, and are complying with, this Code.

(h) To recommend to the Administrator further fair trade practice provisions to govern members of the industry in their relations with each other or with other trades/industries and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

#### ARTICLE VII—TRADE PRACTICE RULES

1. After the effective date of the simplification-standardization schedule provided for in Article VIII, no member of the industry shall sell or deliver any wood cased lead pencils at lower prices than 25 per cent discount from list, to any dealer or distributor who sells foreign made lead pencils which do not conform to the standard specifications contained in such schedule and which were imported after the effective date thereof.<sup>2</sup>

2. No member of the industry shall represent or stamp any pencil or mark its box, sleeve, or container with any degree of lead hardness which does not correspond to the grading commonly applied to that lead by the pencil manufacturer; provided, however, that this regulation shall not apply to types in which degraded pencils are permitted by the standard specifications, in which a standard marking is particularly specified.

3. No member of the industry shall use espionage in any manner, form, or degree against any other member as to the processes, operations, methods, and other trade secrets of any other member.

4. No member of the industry shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, with or without the knowledge of such employer, principal or party. This commercial bribery provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as herein above defined.

5. The Code Authority shall submit recommendations for regulations concerning sampling. After the approval thereof by the Administrator, no wood-cased lead pencils shall be given away free

<sup>2</sup> See paragraph 2 of Order approving this Code.



or sold at reduced prices as an inducement to the sale of other pencils or other commodities except as provided therein.

6. Whenever the sale of wood-cased lead pencils is combined by the manufacturers with the sale of other commodities, pencils shall not be given away free nor sold at reduced prices as an inducement to or reward for the sale of other commodities, or vice versa. Nor shall such special prices be quoted upon a combination offer as to represent a variation from the normal selling price of either or any commodity joined in such offer.

7. No member of the industry shall buy, trade in, exchange, or receive from any dealer, distributor, or consumer any pencils made by any competing member as an inducement to the sale or listing for sale of his own products or as a part of the understood terms of sale of such products.

8. No member of the industry shall discriminate in price between different purchasers of the same type, except on account of difference in quality and quantity.

9. No member of the industry shall give, allow, or pay any secret discount, rebate, refund, or credit, no matter in what form or at what time, as a means of effecting or concealing price discriminations or of extending special preferences or privileges to particular customers.

10. Whenever any prospective purchaser of wood-cased lead pencils shall invite competitive bids upon specifications which call for any recognized quality or standard of pencil, no member nor any member's agent, shall use any endeavor to sell to such purchaser, pencils of a quality or standard lower than that provided in the specifications as indicated by the class and type in the standardization schedule.

11. No member of the industry shall accept or fill, any contract or order for wood-cased lead pencils which is not specific as to the quality and price of pencils to be furnished thereunder, and/or which continues beyond twelve months after the date when the order is placed and/or which does not specify the quantity which the manufacturer is obligated to furnish and the purchaser is obligated to accept. "Requirements" contracts which are definite as to time but indefinite as to quantity or definite as to quantity but indefinite as to time, shall not be accepted.

12. No member of the industry shall make or authorize, permit, or tolerate any action, statement, or representation on the part of any of his employees which falsely discredits or defames a competing member, his reputation or credit, or his products.

13. No member of the industry shall imitate, simulate, or otherwise endeavor to appropriate to his own advantage, the brand, name or number of any member's competing pencil or pencils, his trademarks, the design, marking, color, or other distinguishing feature of his sleeve, band, box, package, or carton. The Code Authority shall establish an appropriate, impartial agency with which the above brands, names or numbers and other distinguishing features shall be registered and shall establish appropriate rules and regulations by which this impartial agency shall administer this paragraph and arbitrate any disputes arising thereunder.



14. No member of the industry shall knowingly, under any pretext whatever, issue or allow to be issued any invoice or other document relating to the sale of wood-cased lead pencils and purporting to state the terms of such sale, which does not accurately and completely exhibit the exact terms of such sale as they are understood in their finality, by the parties thereto.

15. No member of the industry shall imitate, simulate, or copy any new, distinctive, or unique type of pencil which any member may produce, for a period of twelve (12) calendar months after such pencil is put on sale. Provided, however, that this regulation shall be ineffective unless and until the producer of such novelty notifies the Code Authority of the introduction of such novelty. The Code Authority shall promptly notify each member of the introduction of such novelty, send each member a sample thereof, and call attention to this regulation. The Code Authority shall establish an appropriate impartial agency with which said new, distinctive or unique types of pencils shall be registered and shall establish appropriate rules and regulations by which this impartial agency shall administer this paragraph and arbitrate any disputes arising thereunder.

16. No member of the industry shall sell or offer to sell any wood cased lead pencils to any export house except upon conditions guaranteeing that the order is for bona fide consumption in the market for which the goods are ordered.

17. No product of this industry shall be accepted for return by any member of this industry, except such return is due to the fault of a member by reason of defects in production or packing or errors in shipment unless such member's approval has been obtained in advance of such return, and then only in exchange for other merchandise unless credit conditions justify a credit memorandum to cover. When the return of merchandise by customers for exchange is approved by the member, if the return is for other reasons than the fault of the member by reason of defects in production or packing or errors in shipment, a reconditioning charge of not less than ten (10%) per cent of the original net value of the returned goods shall be made, and charge shall also be made for transportation both ways.

18. No member of the industry shall pay or make any allowance, directly or indirectly, for space in catalogs, house organs, or any other form of publicity issued by a customer or prospective customer; provided, that electros for one-color printing may be furnished free by any member to any of his or its customers for the purpose of representing the member's product in the customer's catalog or other publicity material.

19. No member of the industry shall furnish printed pages or insert sheets, whether in color or in black and white, for customers' catalogs for distribution to their trade. Pages for insertion in the catalogs of customers' salesmen, printed in black and white only, may be furnished without charge.

20. No member of the industry shall participate in or make any contribution, either in money or goods, to any cooperative newspaper advertising promoted or carried on by his or its customers. Each



member shall conduct his or its advertising independent of any participation with or by his or its distributors.

21. No member of the industry shall make any contribution, concession, discount, rebate, or consideration of any nature, for erecting and/or maintaining or painting any outdoor advertising device or sign used or to be used by a customer. Advertising material may be furnished free for window and indoor display but no merchandise shall be given free or sold at reduced prices or loaned for display or advertising purposes.

22. No member of the industry shall furnish any sample display equipment except the standard sample cards, flaps, or folders. No mounted sample boards of any kind shall be furnished customers for display in their sample rooms under any pretext whatever.

23. No permanent, refillable display cases for wood-cased lead pencils shall be furnished to any customer for less than one (\$1.00) dollar net for each gross of full capacity.

24. No prizes in money or goods shall be offered or given to trade conventions, trade outings, or outings or celebrations of customers, by members or their officials, representatives or salesmen. This provision on prizes shall not be construed to prohibit free and general distribution of articles other than pencils commonly used for advertising unless such articles are actually used as prizes.

25. The use of color in printing member's or member's sales agent's catalogs shall be restricted to the cover and back pages of such catalogs. The inside pages shall be uniform in ink and paper throughout.

26. No member and no member's representative shall make any exhibition or display of his or its products at any trade convention or meeting of wholesale and/or retail dealers. Exhibits or displays may be made at special conventions or exhibitions, educational or otherwise, for the purposes of consumer information.

#### ARTICLE VIII—STANDARDS

1. The Code Authority with the approval of the Administrator, shall have power to adopt a schedule for the simplification of the variety of industry products and for the standardization of specifications for the prescribed classes and types of industry products and their packaging, including the designation of types which may be sold as blanks and imprints or for advertising purposes. Such schedule when approved by the Bureau of Standards of the Department of Commerce, and the Administrator, shall be distributed to all members of the industry whose addresses are known, with an effective date fixed by the Code Authority. After such effective date, all members of the industry shall conform to the provisions of such schedule.

#### ARTICLE IX—CLASSIFICATION OF MEMBERS

1. Class A members are those members of the industry each of whom has fifteen (15%) per cent or more of the total sales volume of the industry.

2. Class B members are those members each of whom has more than five (5%) per cent and less than fifteen (15%) per cent of the total sales volume of the industry.



3. Class C members are those members each of whom has less than five (5%) per cent of the total sales volume of this industry.

#### ARTICLE X—MARKETING TERMS

The approval of the following marketing terms is conditioned upon the continued availability of wood cased lead pencils to the public at the long established customary prices, viz.: one cent each, three for five cents; two for five cents; five cents each; three for ten cents and ten cents each in reasonably relative qualities at these various prices. The members of the industry severally and collectively voluntarily invite the Administrator to and agree that he may examine any or all of their books or records at any reasonable time to determine whether these marketing terms are being administered to effectuate the National Industrial Recovery Act. If the Administrator shall find after reasonable notice and hearing, that these marketing terms are not being so administered the members of the industry shall make such changes in sales policies and prices as may be necessary in default of which the approval of the following marketing terms may be rescinded.

1. The member's list prices shall be the prices at which the member shall sell one gross of his or its products to the consumer. These list prices shall be subject to the deduction of the standard quantity discounts and credit terms.

2. The member's list prices shall include free delivery on shipments of any quantity to New York City and shall include free delivery throughout the balance of the domestic market only when the weight of shipment is one hundred (100) pounds or more. Any transportation charge in excess of the minimum freight rate on such shipments shall be paid by the buyer, as shall all charges for delivery on shipments weighing less than one hundred (100) pounds, except shipments to New York City. Freight charges shall not be prepaid by members, and when allowable as hereinbefore provided, shall be deducted by customers upon remittance for merchandise.

3. Each member shall, within ten days after the effective date of this code, file with the Code Authority a gross price list prepared by him in conformance with the requirements in the code and of Article X, showing his current prices and the standard discounts and terms of payment. Subject to the provisions of paragraph 4, these price lists shall be effective immediately upon filing.

4. No member shall sell or quote in his or its price list or otherwise, any product of the industry at a price, which less the applicable standard discounts, shall be less than the fair minimum price thereof as ascertained by the Code Authority with the approval of the Administrator. Nothing in this provision or in any other provision of this code shall be construed so as to permit the determination of minimum prices for any pencils retailing at the rate of more than five cents each. The Code Authority shall reject any price list which does not conform to the provisions of this paragraph, and so notify the member filing it. Until it is corrected, such price list shall be ineffective and any sales made by such member which do not conform to an effective price list on file with the Code Authority, shall be deemed an unfair method of competition.



5. Revised price lists, with or without discount sheets, may be filed from time to time thereafter with the Code Authority by any member, to become effective subject to the provisions of paragraph 4, immediately upon filing. These price lists shall be available at reasonable hours to parties in interest. Revised price lists shall be subject to the same conditions as to minimum prices which are provided above for original price lists.

6. No member shall sell any product of the industry at prices lower or discounts greater, or on more favorable terms of payment than those on file at the office of the Code Authority as above provided. Provided that obsolete numbers, imperfect and damaged goods may be sold upon such terms and conditions as the Code Authority may specifically approve.

7. The uniform standard terms of credit shall be sixty (60) days net or two (2%) per cent for cash in ten (10) days, or two (2%) per cent, ten (10) days. E.O.M. The spring dating practice on fall shipments is hereby abolished. The terms for fall dating on spring shipments shall be as follows: Orders may be taken from dealers (not consumers), including syndicates and chain stores (for warehouse shipments only), for shipment during April, May, June, and July upon invoices due and payable September 1st, subject to the standard two (2%) per cent, ten (10) days cash discount. Payments made after September 10th are past due. Provided, however, that this advance dating privilege shall not be allowed by any Class A member on orders for single shipments of less than \$100.00 net value; or by any Class B member on similar orders for less than \$75.00 net value; nor by any Class C member on similar orders for less than \$50.00 net value. Subsequent orders placed after April 1st for shipment before August 1st may be given the dating privilege provided the order amounts to the minimum quantities as above stated.

8. The maximum quantity discount which may be allowed by the member to the consumer on standard lines, and special imprints, not for advertising, shall be as follows: 1 to 4 gross, one kind or assorted, no discount; 5 to 9 gross, one kind or assorted, 10 per cent off list; 10 to 24 gross, one kind or assorted, 15 per cent off list; 25 to 49 gross, one kind or assorted, 20 per cent off list; 50 to 99 gross, one kind or assorted, 25 per cent off list; 100 to 499 gross, one kind or assorted, 30 per cent off list; 500 gross and over, one kind or assorted, 33 $\frac{1}{3}$  per cent off list.

(a) The quantity ordered for one shipment shall govern the application of the above schedule. When quotation is made on a stated minimum quantity, an order shall not be accepted for a smaller shipment except at the lower discount specified for such smaller quantity.

9. The minimum terms at which the member shall sell pencils specially imprinted for advertising purposes shall be as follows: 1,000 pencils (or 7 gross), nickel tip, list plus 60 per cent per gross; 1,000 pencils (or 7 gross), all others, list plus 40 per cent per gross.

These are hereinafter referred to as the "base":

Less than 1,000, base per gross plus 10 per cent

2,500 pencils, base less 5 per cent

5,000 pencils, base less 8 per cent



- 10,000 pencils, base less 20 per cent
- 25,000 pencils, base less 25 per cent
- 50,000 pencils, base less  $33\frac{1}{3}$  per cent
- 100,000 pencils or more, base less 40 per cent

10. The member's lowest selling prices to dealers for standard lines and special imprints, not for advertising, shall be the effective list price filed as herein provided, less a maximum trade discount of 40 per cent off list and subject to the standard credit and cash discount terms, except in case of Class I, Type I, in which case the discount shall be  $33\frac{1}{3}$  per cent off list. This standard trade discount is further subject to the provisions of paragraph 14 of Article X; provided, however, that commencing January 1, 1935, when a dealer's purchases of industry products during the previous calendar year from a Class A member are less than \$200.00 net or from a Class B member are less than \$150.00 net or from a Class C member are less than \$100.00 net, the member shall sell to the dealer at no more than the following quantity discounts: 1 to 4 gross, assorted, 20 per cent off list; 5 gross and over, assorted, 25 per cent off list. Nothing contained in this provision shall operate as a limitation upon the opening of any new account with the allowance of normal discounts if said new accounts are opened in accordance with the provisions of paragraph 16 of this article.

11. The Code Authority, with the approval of the Administrator, may establish an additional scale of cumulative discounts based on the dealer's or distributor's entire annual purchase of industry products from all members of the industry combined, the payment of which by the members shall not constitute a violation of the minimum price provisions of Article X. Each member may pay this additional discount at the rate ascertained by the Code Authority, upon the amount of his individual sales to the particular dealer or distributor.

12. Blank pencils for imprinters of advertising pencils shall not be sold to the general trade but directly only to recognized distributors of advertising pencils, whose names shall be filed with the Code Authority. With reference to the sale of blank pencils for imprinting for advertising purposes, it shall be the duty of the Code Authority with the approval of the Administrator, to establish an orderly system and method of distribution and sale of blank pencils, directed to the prevention of unfair competition in the advertising pencil business or between blank pencils and the standard commercial products of the industry.

To all recognized distributors of advertising pencils, the maximum discounts on blank pencils for shipment at one time, shall be as follows:

- 1 to 6 gross, no discount
- 7 to 49 gross, 10 per cent off list
- 50 to 99 gross, 20 per cent off list
- 100 to 499 gross, 25 per cent off list
- 500 to 999 gross,  $33\frac{1}{3}$  per cent off list
- 1000 gross and over, 40 per cent off list.

13. The Code Authority, with the approval of the Administrator, shall prescribe such rules and regulations as it shall deem proper by



which the question as to whether any purchaser or prospective purchaser is a sales agent, dealer, distributor, or consumer, shall be determined and shall arbitrate all such disputed questions. The Code Authority shall notify each member of the industry of such rules, regulations, and decisions in this regard. Any such decision may be referred to the Administrator upon petition, and his decision shall be final.

14. No member of the industry shall sell and deliver or contract to sell and deliver, to any dealer, distributor or agent, any industry product including imprints, which retail at the rate of 5 cents or less each, at a greater discount than 25 per cent off list unless and until such member shall secure from such dealer, distributor or agent, an agreement substantially in the form previously approved by the Code Authority and by the Administrator, obligating the dealer, distributor or agent—

(a) that he or it will not without the consent of the Code Authority, sell such product including imprints, to any consumer at a price which at the time of the sale thereof shall be less than the price at which the member might then sell such product including imprints, to the consumer:

(b) that the dealer, distributor or agent will not sell such product including imprints, to any other dealer, distributor or agent for resale to consumers, except upon a like agreement between the dealer and/or distributors and/or agents, and

(c) that the failure of compliance with such agreement by the dealer, distributor or agent, shall operate as a modification of the said agreement by which the applicable discount rate shall be reduced to 25 per cent off list.

Any dealer, distributor or agent which executes, delivers and complies with the provisions of such agreement, shall be quoted or sold by the member at a discount of 40 percent off list.

The failure by the member to comply with the provisions of this paragraph shall be a violation of the code.

15. In all sales of trade-marked or branded products to dealers for resale, members and dealers may, by contract, require purchasers to resell such products at the manufacturer's effective prices and discounts and may further require that if such products are thereafter sold by such purchaser for resale, the original purchaser shall incorporate a similar provision in the contract with the purchaser for resale.<sup>3</sup>

16. Class A members shall not open any new account with a dealer who or which has not bought since January 1, 1931, from the member, upon less than a minimum quantity for shipment at one time, of \$100.00 net worth of wood-cased lead pencils; Class B members shall not open a new account with any such dealer upon less than a minimum order for shipment at one time, of \$75.00 net worth of wood-cased lead pencils; Class C members shall not open a new account with any such dealer upon less than a minimum order for shipment at one time, of \$50.00 net worth of wood-cased lead pencils.

17. No member shall evade the minimum price provisions of this

<sup>3</sup> See paragraph 2 of Order approving this Code.



code by submitting a bid on fractions of a gross at a price which is not extended to the exact common fraction of a cent in event that the division does not figure out to an even cent.

18. No manufacturer shall ship to any direct factory accounts on an order for less than \$15.00 net worth of pencils, at the maximum discount off list price. Orders for smaller quantities shall be billed at twenty-five (25%) percent off list.

19. Except as provided in paragraph 6 of Article X, no member shall sell any imprints, jobs, seconds, blanks, pencils for premiums, advertising pencils, or pencils purchased by manufacturers of other products to be used in connection therewith, in the domestic market which includes Hawaii and Puerto Rico, at any lower prices or on any other terms or conditions than those which are applicable to the standard commercial numbers of the equivalent class and type.

20. After the adoption of the standardization schedule in accordance with this code, no pencil types shall be sold to distributors in blank form or as consumer or advertising imprints which are not provided for therein. No pencils shall be so imprinted unless the standard specifications so provide.

21. The prices to dealers for dealer imprints shall not be less than the prices for the equivalent types of standard brand pencils to dealers.

22. No member shall sell special imprints not for advertising, nor member's standard brands back stamped, on orders for single shipments and billing of less than 1,000 gross of Type 1, Class 1, or 100 gross of Type 3, Class 1, or 25 gross of any other type of Class I, Class IV or Class V, or 50 gross of any type in any other class, nor less than 15 gross of lead degrees 2, F, or 3, nor less than 5 gross of lead degrees 1 and 4.

23. Nothing contained in Article X shall apply to export trade to the Philippine Islands or any foreign country or its possessions.

#### ARTICLE XI—MODIFICATION

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act, and this Code is further subject to right of the Administrator to review and veto any action of the Code Authority he deems inconsistent with the Act or the Code.

2. This Code, except as to provisions required by the Act, may be modified or amended on the basis of experience or changes in circumstances, such modifications or amendments to be based upon application through the Code Authority to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President, unless otherwise provided.

#### ARTICLE XII—MONOPOLIES, ETC.

1. No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.



## ARTICLE XIII—PRICE INCREASES

1. Whereas the policy of the Act to increase real purchasing power will be made more difficult of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases except such as may be required to meet individual cost should be delayed, but when made, such increases should, so far as possible, be limited to actual additional increases in the seller's costs.

## ARTICLE XIV—EFFECTIVE DATE

1. This Code shall become effective on the tenth day after its approval by the President.

Approved Code No. 291.

Registry No. 1647-01.













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